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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,287	01/23/2004	Michael D. Ellis	81788-4300	9180
28765	7590	12/13/2006		
WINSTON & STRAWN LLP PATENT DEPARTMENT 1700 K STREET, N.W. WASHINGTON, DC 20006			EXAMINER KARIKARI, KWASI	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,287

Applicant(s)

ELLIS ET AL.

Examiner

Kwasi Karikari

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/15/04 and 09/29/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claim 3-6 and 10-13 have been considered but are moot in view of the new ground(s) of rejection.
2. Claims 1, 2 and 7-9 have been canceled .

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 06/15/2004 and 09/29/2006 are in compliance with the provision of 37 CFR 1.97, has been considered by the Examiner, and made of record in the application file.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6 and 10-13 are rejected under U.S.C. 103(a) as being unpatentable over Kivela et al. (U.S 6,272,359), (hereinafter Kivela) in view of Willard et al., (U.S. 4,803,487), (hereinafter Willard).

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Regarding **claims 3 and 10**, Kivela discloses jewelry individual network component comprising:

a wireless transceiver configured to send data to and receive data from other individual network components in a modular personal network (= communication links between devices, see col. 3, line 32- col. 4, line 23; and Figs. 1a & 4a)

circuitry (= communication path between devices, see Figs. 1a & 4a) provide a specific function for modular personal network,

a mount configured to allow a user wear the jewelry individual network component (= first part can be kept on a belt, and the second part on the wrist, see col. 2, lines 22-29 and col. 4, lines 11-23) and

whereby the jewelry individual network component is configured to operate as an individual network component in the modular personal network so as to send or receive data from one or more other individual network components of the modular personal network that are also carried by the user (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist, see col. 2, lines 22-29 and col. 4, lines 11-23; and Figs. 1a & 4a); but fails to specifically teaches an integrated item of jewelry selected from a pendant.

However, Willard teaches an integrated item of jewelry selected from a pendant (= wrist worn presentation unit 22 may take a form of bracelet, pendant, necklace or the like, see col. 3, lines 52-64)

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Willard into the system of Kivela for the benefit of achieving a system that include communication receiver which utilizes a separate presentation unit (see Willard col. 2, lines 14-26).

Regarding **claims 4 and 11**, as recited in claims 3 and 10, Kivela discloses all the claimed limitations (see col. 11, line 50- col. 12, line 49); but fails specifically to teach that the jewelry individual network component is an earring speaker wherein the mount is configured to be worn in the pieced ear.

However, Willard teaches an integrated item of jewelry selected from a pendant (= wrist worn presentation unit 22 may take a form of bracelet, pendant, necklace or the like, see col. 3, lines 52-64).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Willard into the system of Kivela for the benefit of achieving a system that include communication receiver which utilizes a separate presentation unit (see Willard col. 2, lines 14-26).

Regarding **claims 5 and 12**, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein circuitry comprises demodulator for processing the received signals and a demodulator for converting the processed signals; and the wireless transceiver comprises wireless transmitter for sending the converted signal to

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another device worn by the user (see col. 3, line 32- col. 4 line 65); but fails to teach the modular component is an earring.

However, Willard teaches an integrated item of jewelry selected from a pendant (= wrist worn presentation unit 22 may take a form of bracelet, pendant, necklace or the like, see col. 3, lines 52-64).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Willard into the system of Kivela for the benefit of achieving a system that include communication receiver which utilizes a separate presentation unit (see Willard col. 2, lines 14-26).

Regarding **claims 6 and 13**, as recited in claims 3 and 10, Kivela discloses the claimed limitations concerning the transceiver and circuitry components (= communication links between devices, see col. 3, line 32- col. 4, line 23; and Figs. 1a & 4a); but fails to teach that the component is a ring individual network component wherein: the mount is of a ring configured to be worn around a user's finger.

Willard teaches wherein the jewelry individual network component is a ring individual network component wherein: the mount is of a ring configured to be worn around a user's finger (presentation 22 may take a form of bracelet, pendant or the like, see col. 3, lines 52-64 and Fig. 1).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Willard into the system of Kivela for the benefit of achieving a

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system that include communication receiver which utilizes a separate presentation unit (see Willard col. 2, lines 14-26).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kese et al. (U.S. 5,884,198) teaches a body conformal portable radio and method of constructing the same.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-F (8 am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kwasi Karikari
Patent Examiner.


TEMICA BEAMER
PRIMARY EXAMINER